



TFW

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

DeLeys et al

Atty. Ref.: 2551-141; Confirmation No. 3673

Appl. No. 10/822,871

TC/A.U. 1648

Filed: April 13, 2004

Examiner: Unassigned

For: SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS  
C VIRUS

\* \* \* \* \*

February 20, 2007

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RENEWED REQUEST**

Responsive to the Notice Regarding Benefit/Priority Claim(s) dated May 12, 2005, copy attached, reconsideration is requested along with a Corrected Filing Receipt which identifies Serial No. 07/920,286, for which the present application claims benefit, as a U.S. national phase of PCT/EP91/02409, filed December 13, 1991. Serial No. 07/920,286, is identified in the first page of the present application as a U.S. national phase of PCT/EP91/02409, filed December 13, 1991 and correction of the Patent Office records in this regard is requested.

The attached Notification of Acceptance dated January 6, 1993 is a U.S. Patent Office document and confirmation by the U.S. Patent Office that Serial No. 07/920,286 is a 371 U.S. national phase of PCT/EP91/02409, filed December 13, 1991.

The undersigned previously filed a copy of the attached Notification of Acceptance dated January 6, 1993 with the Response of April 27, 2005 in response to the Notice Regarding Benefit/Priority Claim(s) dated September 27, 2004, as evidence that Serial No. 07/920,286 is a U.S. national phase of PCT/EP91/02409.

The Notification of Acceptance dated January 6, 1993 filed April 27, 2005 as evidence that Serial No. 07/920,286 is a U.S. national phase of PCT/EP91/02409 is contained in the PTO IFW indexed as a part of a "Miscellaneous Incoming Letter" on April 27, 2005. The following is a copy of the undersigned's screen showing the PTO IFW wherein an arrow indicates where the copy of the Notification of Acceptance dated January 6, 1993, filed April 27, 2005, as evidence that Serial No. 07/920,286 is a U.S. national phase of PCT/EP91/02409, can be found.



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10/822,871

Synthetic antigens for the detection of antibodies to hepatitis C virus

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Available Documents

<a href="#">Mail Room Date</a>	<a href="#">Document Description</a>	<a href="#">Document Category</a>	<a href="#">Page Count</a>	<a href="#">Select All</a>	<a href="#">S</a>
01-19-2007	<a href="#">Requirement for Restriction/Election</a>	PROSECUTION	8		
06-14-2005	<a href="#">Fee Worksheet (PTO-06)</a>	PROSECUTION	1		
06-14-2005	<a href="#">Claims Worksheet (PTO-2022)</a>	PROSECUTION	1		
06-14-2005	<a href="#">Preliminary Amendment</a>	PROSECUTION	2		
06-14-2005	<a href="#">Claims</a>	PROSECUTION	8		
06-14-2005	<a href="#">Applicant Arguments/Remarks Made in an Amendment</a>	PROSECUTION	1		
05-12-2005	<a href="#">Miscellaneous Action with SSP</a>	PROSECUTION	3		
05-09-2005	<a href="#">Request for Corrected Filing Receipt</a>	PROSECUTION	3		
05-03-2005	<a href="#">Change of Address</a>	PROSECUTION	1		
04-27-2005	<a href="#">Miscellaneous Incoming Letter</a>	PROSECUTION	5		
04-27-2005	<a href="#">Request for Corrected Filing Receipt</a>	PROSECUTION	5		
09-27-2004	<a href="#">Miscellaneous Action with SSP</a>	PROSECUTION	3		
08-18-2004	<a href="#">Fee Worksheet (PTO-06)</a>	PROSECUTION	1		
08-18-2004	<a href="#">Fee Worksheet (PTO-06)</a>	PROSECUTION	1		
08-18-2004	<a href="#">Applicant Response to Pre-Exam Formalities Notice</a>	PROSECUTION	3		
08-18-2004	<a href="#">Oath or Declaration filed</a>	PROSECUTION	5		
08-18-2004	<a href="#">Change of Address</a>	PROSECUTION	1		
08-18-2004	<a href="#">Amendment - After Non-Final Rejection</a>	PROSECUTION	1		
08-18-2004	<a href="#">Claims</a>	PROSECUTION	14		
08-18-2004	<a href="#">Applicant Arguments/Remarks Made in an Amendment</a>	PROSECUTION	2		

[https://sportal.uspto.gov/secure/myportal/lut/p/kcxml/04\\_Sj9SPykssy0xPLMnMz0vMAfj...](https://sportal.uspto.gov/secure/myportal/lut/p/kcxml/04_Sj9SPykssy0xPLMnMz0vMAfj...) 2/20/2007

Moreover, the following is a "screen shot" of the Notification of Acceptance dated January 6, 1993, contained in the PTO IFW as a part of the "Miscellaneous Incoming Letter" on April 27, 2005.

PDF viewer - Microsoft Internet Explorer

File: 10822871 Page No 5 of 5 pages Miscellaneous Incoming Letter

68%

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**COPY**

**OIPF**  
APR 27 2005  
U.S. PATENT & TRADEMARK OFFICE

WILLIAM W. BECKETT  
BANNER, BIRCH, MC KIE & BECKETT  
1001 G STREET, N.W., ELEVENTH FLOOR  
WASHINGTON, D.C. 20001-4597

JAN 08 1993

UNITED STATES DESIGNATED ELECTED  
OFFICE (DOVE/US)  
NOTIFICATION OF ACCEPTANCE OF  
APPLICATION UNDER 35 U.S.C. 371  
AND 37 CFR 1.494 OR 1.495

Date of Mailing **6 JAN 1993**

File Reference  
137.040502

**IDENTIFICATION OF THE INTERNATIONAL APPLICATION**

International application Number	International filing date	Priority date claimed
PCT/EP91/02409	13 DEC 1991	14 DEC 1990

Applicant for DOVE/US  
DELEYS, ROBERT J. POLLET, DIRK MAERTENS, GEERT AND VAN HELDERSMA JV

**NOTIFICATION**

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a ☒ Designated Office, ☐ Elected Office, has determined that the above identified international application has met the requirements of 35 U.S.C. 371 and 37 CFR ☒ 1.494, ☐ 1.495 and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Serial Number assigned to the application and the relevant dates are:  
**01/920286**      **14 OCT 1992**      **14 OCT 1992**

U.S. NATIONAL SERIAL NO.      35 U.S.C. 102(e) DATE      DATE OF RECEIPT 35 U.S.C. 371 REQUIREMENTS

☒ A request for immediate examination under 35 U.S.C. 371 (f) was received on **14 OCT 1992** and the application will be examined in turn.

☐ No request for immediate examination under 35 U.S.C. 371(f) was received. The application will not be processed or examined before the time limit set forth in either

1 of 1

The undersigned has received a further Notice Regarding Benefit/Priority  
Claim(s) dated May 12, 2005 which does not mention the Response of April 27, 2005 or

the copy of the Notification of Acceptance dated January 6, 1993 filed April 27, 2005 as evidence that Serial No. 07/920,286 is a U.S. national phase of PCT/EP91/02409. The Notice dated May 12, 2005 states the following:

Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a national stage application under 35 U.S.C. 371. The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit such request without such evidence. Applicant should submit an amendment (or an application data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application.

The Patent Office is again requested to correct their records with regard to the benefit claim and the status of Serial No. 07/920,286 as a U.S. National Phase application of PCT/EP91/02409. The previously-submitted evidence should be sufficient to demonstrate that the Patent Office records are incorrect in this regard. As further evidence of the status of Serial No. 07/920,286, attached is a copy of the Filing Receipt from Serial No. 07/920,286 confirming the status of the application as a U.S. national phase of PCT/EP91/02409.

The Office is requested to correct their records and issue a Corrected Filing Receipt.

Alternatively, the Office is requested to specifically indicate what further is required of the applicants to correct the Patent Office records.

DeLeys et al  
Appl. No. 10/822,871  
February 20, 2007

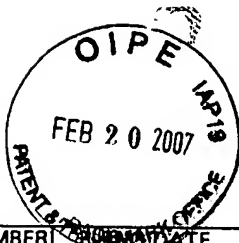
Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:           /B. J. Sadoff/            
B. J. Sadoff  
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BJS:  
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Telephone: (703) 816-4000  
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FILING RECEIPT



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTORNEY DOCKET NO.	DRWGS	TOT CL	IND CL
07/920,286	10/14/92	1806	\$1,561.00	0137.040502	8	25	19

EDWARD J. MC KIE  
BANNER, BIRCH, MC KIE & BECKETT  
1001 G ST., N.W. - 11TH FLOOR  
WASHINGTON, DC 20001-4597

RECEIVED

SEP 20 1993

BANNER, BIRCH  
MC KIE & BECKETT

DOCKETED  
SEP 20 1993

Receipt is acknowledged of this patent application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Application Processing Division's Customer Correction Branch within 10 days of receipt. Please provide a copy of the Filing Receipt with the changes noted thereon.

Applicant(s)

ROBERT J. DELEYS, GRIMBERGEN, BELGIUM; DIRK POLLET,  
WIJNEGEM, BELGIUM; GEERT MAERTENS, BRUGGE, BELGIUM; HUGO  
VAN HEUVERSWIJN, LAARNE, BELGIUM.

FOREIGN/PCT APPLICATIONS-PCT  
EPO

PCT/EP91/02409 12/13/91  
90124241.2 12/14/90

\* SMALL ENTITY \*

TITLE

SYNTHETIC ANTIGENS FOR THE DETECTION OF ANTIBODIES TO HEPATITIS C  
VIRUS

PRELIMINARY CLASS: 530




 2551-141 BJS  
 UNITED STATES PATENT AND TRADEMARK OFFICE

 UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/822,871	04/13/2004	Robert J. Deleys	2551-141

 23117  
 NIXON & VANDERHYE, PC  
 1100 N GLEBE ROAD  
 8TH FLOOR  
 ARLINGTON, VA 22201-4714

CONFIRMATION NO. 3673



\*OC000000016011956\*

Date Mailed: 05/12/2005

## Notice Regarding Benefit/Priority Claim(s)

### ☐ Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)

The benefit claim(s) to prior-filed nonprovisional application(s) is improper because there is no specific reference for each prior-filed application that includes: (1) the identification of the prior-filed application by application number, or international application number and international filing date; and (2) a clear indication the relationship (i.e., continuation, divisional, or continuation-in-part) of the nonprovisional applications. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed application(s) as required by 37 CFR 1.78. A proper relationship includes an identification of each nonprovisional application as a continuation, divisional or continuation-in-part application of the immediate prior-filed nonprovisional application for which a benefit is claimed under 37 CFR 1.78 in order to establish copendency throughout the entire chain of prior-filed applications. The specific reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

**Timeliness:** The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed. See 37 CFR 1.78(a).

### ☐ Improper Benefit Claim(s) to Prior-Filed Nonprovisional Application(s)

The benefit claim(s) to prior-filed provisional application(s) is improper because the instant application was not filed within twelve (12) months from the filing date of the provisional application,

and there is no indication of an intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed within 12 months of the filing date of the provisional application. For example, applicant should amend the specification to include a specific reference, such as "This application is a continuation of Application No. 10/---,--- filed ---, which claims the benefit of U.S. Provisional Application No. 60/---,--- filed---." in the first sentence of the specification following the title.

Applicant should review each benefit claim submitted and, if appropriate, provide the proper reference to the prior-filed applications (including an indication of any intermediate nonprovisional application that is directly claiming the benefit of the provisional application and filed with 12 months of the filing date of the provisional application) as required by 37 CFR 1.78. The required reference must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

**Timeliness:** The required reference for each benefit claim must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed during the pendency of the instant application.

☐ **Improper Priority Claim(s) to Prior-Filed Foreign Application(s)**

The instant application was not filed within twelve (12) months from the filing date of the prior-filed foreign application, and there is no benefit claim to an intermediate nonprovisional application filed within 12 months of the filing date of the foreign application. Applicant should review each priority claim submitted and, if appropriate, provide the proper reference to any intermediate nonprovisional application filed within 12 months of the filing date of the foreign application in compliance with 37 CFR 1.78, or delete the priority claim. The required reference to an intermediate nonprovisional application must be included in the domestic priority information section of an application data sheet (37 CFR 1.76), or the specification must contain, or be amended to contain, such reference in the first sentence following the title.

**Timeliness:** The required reference for the benefit claim to an intermediate nonprovisional application must be filed during the pendency of the instant application and within the later of: (1) four months from the actual filing date of the instant application, or the national stage commencement date if the instant application is a national stage application under 35 U.S.C. 371; or (2) sixteen months from the filing date of the prior-filed application. Failure to timely file the required reference is considered a waiver of any benefit claim, unless a grantable petition to accept an unintentionally delayed claim under 37 CFR 1.78(a), the surcharge set forth in 37 CFR 1.17(t), and the required reference are filed.

☐ **Benefit Claims to More Than 400 Prior-Filed Applications**

The Office's automated system to record and capture benefit claims is only capable of recording benefit claims for 400 prior-filed applications. Therefore, the Office is unable to generate a filing receipt containing benefit claims for more than 400 prior-filed applications even though applicant is entitled to submit benefit claims for more than 400 prior-filed applications. Accordingly, applicant should not request a corrected filing receipt to include benefit claims for more than 400 prior-filed applications.

9/

**Prior-Filed Nonprovisional Application has been Improperly Indicated as a National Stage (35**

**U.S.C. 371) Application**

Applicant submitted a benefit claim to a prior-filed nonprovisional application and improperly indicated that the prior-filed application is a national stage application under 35 U.S.C. 371. The Office's records show that the prior-filed application is an application filed under 35 U.S.C. 111(a). The Office has entered the benefit claim to the prior-filed application as a benefit claim to an application filed under 35 U.S.C. 111(a). Any request for a corrected filing receipt to include the indication that the prior-filed application is a national stage application will not be granted unless applicant supplies evidence that the prior application was in fact a national stage application. Accordingly, applicant should not submit such request without such evidence. Applicant should submit an amendment (or an application data sheet (ADS) if the benefit claim was submitted in an ADS) to delete the indication that the prior-filed application is a national stage application.

For more information and examples on benefit claims, please see Claiming the Benefit of a Prior-Filed Application under 35 U.S.C. 119(e), 120, 121, and 365(c), 1268 Off. Gaz. Pat. Office 89 (March 18, 2003), which is available on the USPTO website at <http://www.uspto.gov/web/offices/com/sol/og/2003/week11/patbene.htm>, and the Manual of Patent Examining Procedure (MPEP) §§ 201.11 and 201.14.

PART 2 - COPY TO BE RETURNED WITH RESPONSE